HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.584 OF 2007

Between:

Reserve Bank of India and another

. . .Appellants

AND

The Hyderabad Cooperative Urban Bank Limited and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellants : Shri K.G.Kannabhiran
Senior Advocate assisted by
Shri
M.P.Ugle

24th July, 2007

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PER G.S.SINGHVI, CJ

This appeal is directed against order dated 18.06.2007 passed by the learned Single Judge in WPMP No.8059 of 2007 in Writ Petition No.6309 of 2007 whereby she directed that interim arrangement made by the Division Bench in Writ Appeal No.487 of 2006 decided on 02.05.2006 shall remain operative and the Registrar of Societies shall take charge of the affairs of the Hyderabad Cooperative Urban Bank Limited (for short, 'the bank').

It is borne out from the record that by an order dated 01.3.2006, Reserve Bank of India (appellant No.1 herein) cancelled the licence of the bank on the ground of the latter's failure to comply with the directions given under the Banking Regulation Act, 1949 (for short, 'the Act'). The bank challenged that order under Section 22 (5) of the Act. The appeal preferred by it was registered as Appeal No.14/2 of 2006. During the pendency of the appeal, appellant No.1 issued order for winding up of the bank.

The bank challenged the cancellation of licence in Writ Petition No.6786 of 2006. It also filed WPMP No.8718 of 2006 for interim relief. By an order dated 24.4.2006, the learned Single Judge directed the Government of India to dispose of the bank's appeal within a period of six weeks.

Feeling dissatisfied with the order of the learned Single Judge, the bank and two of its Directors filed Writ Appeal No.487 of 2006, which was disposed of by the Division Bench with the following observations and direction:

> "The appellants have a valid point to canvass. They have a statutory appellate remedy against the order of cancellation of

licence. Till such appellate jurisdiction is exercised and an order is passed in the appeal, irretrievable changes ought not to be made and the bank ought not to be liquidated.

In the aforesaid circumstances, the Writ Appeal is disposed of to the extent of suspending the order of the fourth respondent, dated 07.03.2006, to the extent of ordering winding up of the first appellant-bank and appointing one Shaik Yakoob Hussain, Assistant Registrar, O/o the Divisional Co-Operative Officer, Charminar Division, as a Part-time Liquidator under Section-65 of the Act and in terms of Section-115-B(2) read with Section-13-D of the Depositors Insurance Credit Guarantee Co-Operation Act, 1961. This order of suspension of the fourth respondent's proceedings, dated 07.03.2006, shall be operative till the disposal of the first appellant's appeal by the first respondent. The affairs of the first appellant-bank will fall to be regulated thereafter in accordance with the decision of the appellate authority-first respondent. If the first respondent concurs with the decision of the Reserve Bank of India, cancelling the banking licence of the first appellant-bank, then the order of the Reserve Bank of India, dated 01.03.2006, directing the fourth respondent to exercise jurisdiction and powers under Section-64 of the Act, will become operational as also the order of the fourth respondent, dated 07.03.2006.

Till the disposal of Appeal No.14/2 of 2006, however, the order of the fourth respondent, dated 07.03.2006, shall remain suspended. In the interregnum and till the disposal of the appeal by the first respondent, the Registrar of Co-Operative Societies, A.P., Hyderabad, shall take charge of the affairs of the first appellant-bank and shall maintain *status quo* as to the affairs of the bank, having regard to the fact that the cancellation of the banking licence is operational and no interim order has been passed in the appeal by the first respondent. The order of the learned Single Judge impugned herein is modified to the extent above."

In compliance of the direction given by this Court, the Government of India passed order dated 14.3.2007 whereby the bank's appeal was dismissed. The bank challenged that order in Writ Petition No.6309 of 2007. The learned Single Judge admitted the writ

petition and passed interim order in W.P.M.P.No.8059 of 2007, which reads as under:

> "Heard the learned counsel for both the parties.
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> Pending appeal before the first respondent, this Court while disposing of WA.No.487 of 2006, directed as under:
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> "Till the disposal of Appeal No.14/2 of 2006, however, the order of the fourth respondent, dated 07.03.2006, shall remain suspended. In the interregnum and till the disposal of the appeal by the first respondent, the Registrar of Cooperative Societies, A.P., Hyderabad, shall take charge of the affairs of the first appellant-bank and shall maintain status quo as to the affairs of the bank,having regard to the fact that the cancellation of the banking licence is operational and no interim order has been passed in the appeal by the first respondent. The order of the learned Single Judge impugned herein is modified to the extent above.
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> Having regard to the fact that the order passed by the first respondent is under challenge in this writ petition, till the correctness of the said order is decided in the main writ petition, I am of the opinion that it would be appropriate to continue the interim arrangement as ordered by this Court in WA.No.487 of 2006.
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> Accordingly, pending further orders, the order, dated 07.03.2006 passed by the fourth respondent shall not be given effect to. Further, the Registrar, Cooperative Societies shall take charge of the affairs of the petitioner Bank and shall maintain status quo as to the affairs of the Bank.
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> Post the writ petition for final hearing on 23.07.2007, subject to part heard."

At the hearing, Shri K.G.Kannabhiran, learned Senior Counsel appearing for the appellants made a statement that after dismissal of the appeal preferred by the bank on 14.03.2007, the official liquidator had taken charge of the bank and, therefore, the order passed by the learned Single Judge is liable to be vacated.

In the context of the aforementioned statement, we enquired from the learned Senior Counsel whether the factum of taking over charge of the bank by the official liquidator was brought to the notice of the

learned Single Judge during the course of hearing of WPMP No.8059 of 2007. To this, Shri Kannabhiran replied in the negative.

In view of the above, we are convinced that the only remedy available to the appellants is to seek review of the order under challenge by filing appropriate application in WPMP No.8059 of 2007.

With the above observation, the appeal is dismissed leaving the appellants free to apply for review of order dated 18.06.2007 passed by the learned Single Judge in WPMP No.8059 of 2007.

As a sequel to dismissal of the main appeal, WAMP No.1159 of 2007 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

24th July, 2007

C.V.NAGARJUNA REDDY, J

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